IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.771 OF 2006

Salim Rashid Tamboli ...Applicant.

v/s

The State of Maharahstra ...Respondent.

Mr. Shekhar Ingawale for the applicant.
Ms. S.V. Gajre , APP for the State.

CORAM: V.M. KANADE, J.
DATE: 1st March, 2006

P.C:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant was arrested on 1/10/2004 in connection with an offence which is registered by Ichalkaranji Police Station vide C.R. No.87 of 2004 for the offence punishable under section 302 read with section 34 of the Indian Penal Code. It is alleged that the applicant along with accused No.1 came near Dhanaji who was sitting near his residence and other accused Javed gave two blows with a sword to the deceased Dhanaji.

3. It is submitted that the applicant was merely standing near the main accused and he had not committed any overtact and that there is nothing to indicate that he shared the intention of the accused

Javed. The learned APP has invited my attention to the statement of the eye witnesses and the eye witnesses also have not stated any where that the present applicant had assaulted the deceased or had instigated the other accused Javed to assault the deceased. Prima facie, therefore, there is no evidence to show that he shared an intention of Javed who had assaulted the deceased with the sword. The charge-sheet has been filed. The applicant is in jail since last one and half year.

4. Under the circumstances, the applicant be released on bail in the sum of Rs 5000/- with one or two sureties in the like amount. He shall report to the concerned Police Station once in a month.

5. The trial court shall not be influenced by any observation made by this Court while passing this order and it may not be construed as an expression of opinion on the merits of the case. The trial court shall decide the trial on its own merits and in accordance with law.

6. Application is accordingly disposed of.

V.M. KANADE, J.